

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

AMON WALDO PERSHALL, JR.)	
)	
Plaintiff,)	
vs.)	Case No. CIV-11-961-HE
)	
MATTHEW PIATT, ET AL.,)	
)	
Defendants.)	

ORDER

Plaintiff Amon Pershall, Jr., a state prisoner proceeding *pro se*, brought this civil rights suit under 42 U.S.C. § 1983. Presently at issue is defendant Matthew Piatt's motion to dismiss plaintiff's claims for failure to state a claim. Consistent with 28 U.S.C. § 636(b)(1)(B), this matter was referred for initial proceedings to Magistrate Judge Bana Roberts. She has recommended that the court grant defendant's motion. Objections to Judge Roberts's Report and Recommendation were due by April 12, 2012.


Plaintiff, having failed to object to the Report and Recommendation, has waived his right to review of the factual and legal issues it addressed.¹ United States v. 2121 E. 30th St., 73 F.3d 1057, 1059 (10th Cir. 1996); *see also* 28 U.S.C. § 636(b)(1)(C) ("A judge of the court shall make a de novo determination of those portions of the report or specified

¹ *Plaintiff did not respond to defendant's motion to dismiss or Judge Robert's Report and Recommendation. It appears plaintiff may not have received notice of either. Plaintiff's address of record is at the Payne County jail; however, he has not resided there since before December 29, 2011. See Doc. Nos. 23 & 25. The local rules of this court require a pro se litigant to notify the court and adverse parties of any change in his or her mailing address. LCvR5.4(a). Plaintiff's failure to object to the Report and Recommendation is not excused on the basis of lack of notice as he has failed to follow the court's rules. See LCvR5.4(a) (papers sent by the court are deemed delivered if sent to the litigant's last known address).*

proposed findings or recommendations *to which objection is made.*" (emphasis added)). Accordingly, the Report and Recommendation [Doc. #24] is **ADOPTED** and defendant's motion to dismiss [Doc. #22] is **GRANTED**. Plaintiff's claims against defendant Piatt are **DISMISSED** without prejudice. As there are no remaining claims against any party, a separate judgment will be entered contemporaneously with this order. *See* Fed. R. Civ. P. 54(b) & 58(a).

IT IS SO ORDERED.

Dated this 20th day of April, 2012.



JOE HEATON
UNITED STATES DISTRICT JUDGE